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HOUSE BILL 3220
By Caldwell

AN ACT to amend Tennessee Code Annotated, Title 50 and Title 56, relative to sale or marketing of information.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 1, is amended by adding the following as a new section:

(--)(a)(1) It is unlawful for an insurer or carrier that provides accident or health insurance; a nonprofit hospital or medical service corporation; a health, hospital or medical service corporation; a health maintenance organization, including any that participates in the TennCare or any successor program; a M.E.W.A.; or a pharmacy benefit management organization to market, sell or give away information regarding patients, enrollees or insureds, including, but not limited to, lists of such persons. This section does not apply to release of nonidentifying information for bona fide research or audit purposes.

(2) Violation of this subsection shall be punished as a Class C misdemeanor.

(b) In lieu of, or in addition to, any other remedy that may be available under this title, the commissioner may assess a civil penalty against any entity violating this act in

an amount not to exceed one thousand dollars (\$1,000) for each separate violation, or the amount realized by the entity, whichever is greater. In any civil action brought to enforce this provision, costs for the prevailing party, including the department, shall include reasonable expenses, including attorney fees.

(c) The commissioner is authorized to promulgate rules and regulations pursuant to the Uniform Administrative Procedures Act, Title 4, Chapter 5, to enforce the provisions of this section.

SECTION 2. Tennessee Code Annotated, Title 50, Chapter 1, Part 3, is amended by adding the following as an appropriately designated section:

(a) It is unlawful for any employer, or an agent, contractor or employee of an employer, to market, sell or give away medical information regarding an employee, including records for medical services provided or paid for by the employer. For purposes of this section, medical information shall include lists of employees or family members receiving health insurance. Medical information shall not include nonidentifying information provided for bona fide research or audit purposes.

(b) Violation of this section shall be punished as a Class C misdemeanor.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.